REMARKS

Applicants would like to thank the Examiner for the courtesies rendered during the telephone conference of July 24, 2006. During the telephone conference, proposed claim amendments were discussed in view of the references cited. It is noted that no agreement was reached as to the allowability of the claims.

Claims 1-31 are now pending in the application. Claims 1-5, 8-10, 13-16, 18-24, and 28-33 are rejected; and Claims 6-7, 11-12, 17, and 25-27 are objected to. Claims 22, 24, 32, and 33 are being cancelled herein. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

DRAWINGS

The Applicants gratefully acknowledge the acceptance of the drawings filed with this application on December 8, 2003.

REJECTION UNDER 35 U.S.C. § 102 & § 103

Claims 1, 3-4, 8, 21-24, and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Harwin et al. (U.S. Pat. No. 6,458,135). Claims 30-33 stand rejected as being anticipated by Axelson, Jr. et al. (U.S. Pat. No. 5,860,980). Claims 2, 5, 10, 13-16, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harwin in view of Axelson. Claims 9, 19 and 29 stand rejected over Harwin in view of Hodge (U.S. Pat. No. 5,486,178). These rejections are respectfully traversed.

The Examiner's attention is directed to independent Claim 1 which has been amended to include the limitation that the femoral sizing guide includes an actuator

disposed between the extension portion and the base portion which is configured to rotatably displace the extension portion with respect to the base portion. The Examiner cites the Axelson reference as teaching an actuator (worm gear) that is capable of yielding rotation with its slidable attachment to the superstructure. Applicants respectfully traverse this characterization and note that the Harwin reference additionally does not contain an actuator which is capable of yielding relative rotation of the components of the femoral sizing guide as generally required by each of the independent claims. In this regard, the Examiner's attention is directed to column 5, lines 47-50, of the Harwin reference which shows that the knob 68 is a locking knob and not an actuator configured to cause relative rotation between the extension portion and the base.

At the onset, Applicants further note that the mechanism 18 shown the Axelson reference is a rack and pinion gear as opposed to the worm gear, which is a limitation in many of the claims. Additionally, Applicants note that the extension portion (26) of the Axelson reference is not configured (as claimed) to be placed adjacent to a posterior condyle surface of the femur. The Examiner's attention is directed to Figure 1 of the Axelson reference which shows that it is the posterior skid 38 that is coupled to the condyle as opposed to the posterior skids 22, 24 as proposed. As such, there is no actuator shown between the posterior skids configured to interface with the posterior condyle surface and the superstructure. Applicants respectfully submit that the skids (36, 38) of Axelson would prevent the posterior skids 22, 24 from interfacing from the condyles. In this regard, the Examiner's attention is directed to column 5, lines 5-9, which describe these skids (22-24) as functioning to interface with the tibia. Similarly, Figure 4 of the Axelson reference shows this usage. As such, Applicants submit

Axelson does not teach the actuator between the base portion and the extension portion as claimed.

The Examiner's attention is directed to Claim 10 which claims a femoral sizing guide having a worm gear disposed between the base and the extension portion. Rotation of the worm gear causes rotation of the feet with respect to the superstructure. Applicants submit that, for the reason cited above, none of the references cited show this limitation.

The Examiner's attention is further directed to Claim 16, which claims a femoral sizing guide having a gear disposed between the base and the extension portion. This gear is configured to rotate the base portion with respect to the extension portion. Additionally, Claim 16 and its dependents contain the limitation that the gear is rotationally displaced from a rotation axis. Similarly, Claims 21 and 30 contain the limitation that an actuator is disposed between the foot portion and the base portion at a location which is displaced from the rotational axis.

With respect to the rejections of Claims 2, 5, 9, 10, 13-16, 18, 20, and 29 under 35 U.S.C. § 103, the Examiner's attention is directed to the amendments to the claims and accompanying comment for Claims 1, 16, and 21. Applicants respectfully submit that for the above-stated reasons, the Claims are not anticipated or rendered obvious by the cited reference. As such, Applicants submit that the claims, as amended, are in condition for allowance.

ALLOWABLE SUBJECT MATTER

The Examiner states that Claims 6-7, 11-12, 17, and 25-27 would be allowable if rewritten in independent form. Applicants thank the Examiner for the acknowledgment of

allowability. In view of the amendments and comments herein, Applicants submit all of the claims are in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: July 27, 2006

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